

An advertisement by a business stating it will pay the customer's sales tax violates the provisions of Section 7 of the Use Tax Act (35 ILCS 105/7). (This is a GIL).

June 25, 1999

Dear Xxxxx:

This letter is in response to your letter dated April 28, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

In December of 1998, we received a letter from you requesting that we discontinue advertising our 'We'll Pay the Sales Tax' promotion. Sales tax was actually being collected. We were simply deducting the amount of the sales tax from the purchase.

You indicating that it violated the provisions of Section 7 of the Use Tax Act (35 ILCS 105/7). Although it was a very successful promotion, we complied with your request and have not made the offer since.

However, we continue to see our competitors run the offer in the newspaper. I am sending you copies of two ads from this week's NEWSPAPER. If there is something about the way they have worded their offer that makes it acceptable, please let me know as we would also like to be able to advertise it. If you were simply unaware of their advertising, I would like to respectfully request that you also prohibit our competitors from making this offer.

We have reviewed the advertisements you sent to us. As you are aware, an advertisement by a business stating it will pay the customer's sales tax violates the provisions of Section 7 of the Use Tax Act (35 ILCS 105/7). As indicated therein, it is a class A misdemeanor for a retailer to advertise that he will pay the sales tax on a purchase. Our regulations also reflect this at 86 Ill. Adm. Code 150.515.

We note one advertisement states that "[A]n amount equal to the sales tax will be deducted from selling price then the applicable tax will be added to the order to comply with state, county and local tax laws." Please be advised that the Department has said in prior rulings that similar advertisements do not violate the Use Tax Act.

The other ad contains some qualifying writing near the "no sales Tax" statement. However, this writing is small and not very legible. We will be

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contacting this business about their advertisement to ascertain the exact wording so that we can advise them how it is affected by Illinois sales tax law.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk

Enc.